

REMARKS

Claims 1, 7-8, 13-14, 16, 22-24 are amended, claims 4 and 19 are canceled, and claims 26 and 27 are added; as a result, claims 1-3, 5-18, and 20-27 are now pending in this application.

Support for amendments may be found in the specification at least in paragraphs 22 and 39.

Examiner Interview

Applicants thank Examiners for the telephonic interview conducted on November 21, 2007. In the course of the interview, the context of claim 1 was discussed and it was suggested by Examiners that enumerating available payment options in claim 1 or, for example, reciting a selection operation may clarify the differences between claim 1 and Hills (U.S. 6,164,528).

Claim Objections

Claims 4 and 19 were objected to as being of improper dependent form for failing to further limit the subject matter of the previous claim. Claims 4 and 19 were cancelled. It is submitted that the objection has been overcome.

Claim 23 was objected to for minor typographical errors which have been corrected in this amendment. Claim 23 was amended to correct minor typographical errors. It is submitted that the objection has been overcome.

§112 Rejection of the Claims

Claims 7, 13 and 22 were rejected under 35 U.S.C. § 112, second paragraph, for indefiniteness. Claims 7, 13 and 22 were amended. It is submitted that the objection has been overcome.

§102 Rejection of the Claims

Claims 1, 2, 4-10, 12, 14-17, and 19-25 were rejected under 35 U.S.C. § 102(b) as being anticipated by Hills.

Hills is directed at a point of sale system designed to read information from a consumer's check, credit card, or manual input with a subsequent debiting of a consumer's account and crediting merchant's account for the goods or services provided. (Hills, Abstract.)

Hills fails to disclose or suggest "identifying at least one approved payment option ... utilizing the consumer information," "generating a list of approved payment options, the list including the at least one approved payment option" and "requesting that the consumer selects a payment option from the list" recited in claim 1, as amended. Thus, claim 1 and its dependent claims are patentable and should be allowed.

Hills discloses a terminal that prompts a user to process one of four optional inquiry types (Hills, 13: 31-33), but fails to disclose or suggest "a selection module to present the consumer with an option to select a payment option from the list of at least one approved payment options" recited in claim 8. It is submitted that *the terminal that prompts a user to process one of four optional inquiry types* is distinct from a selection module to present the consumer with an option to select a payment option from the list of at least one approved payment options, the list generated "utilizing the consumer information," as recited in claim 8.

Thus, because Hills fails to disclose or suggest "a selection module to present the consumer with an option to select a payment option from the list of at least one approved payment options" recited in claim 8, claim 8 and its dependent claims are patentable and should be allowed.

Claim 14, as amended, recites "the at least one approved payment option identified based on the consumer information," "presenting a list of payment options, the list including the at least one approved payment option to the consumer," and "requesting that the consumer selects an approved payment option from the list." These operations are not disclosed in Hills, as explained

with reference to claim 1. Thus, claim 14 and its dependent claims are patentable and should be allowed for at least the reasons articulated with reference to claim 1.

Claims 16 and 24, as amended, recite instructions to "communicate the at least one approved payment option to the consumer for the selection by the consumer" and "request that the consumer selects an approved payment option from a list including the at least one approved payment option identified based on the consumer information." These instructions are not disclosed in Hills, as explained with reference to claim 1. Thus, claims 16 and 24 and their respective dependent claims are patentable and should be allowed for at least the reasons articulated with reference to claim 1.

In order to show "means for presenting the consumer with an option to select a payment option from the list of at least one approved payment options" recited in claim 23, the Office action cited the following: "Finally, a Transaction Event Slip ("Sales Slip") will be produced by a printer integral to the point-of-sale terminal and will be executed by the consumer in the amount of the stated purchase with inscribed language defining the Transaction Event and specifically providing consumer authorization for electronic access to his/her banking account." (Hills, 6: 17-13.) As is evident from the passage, there is no mention of presenting the consumer with an option to select a payment option from the list of at least one approved payment options. Thus, because Hills fails to disclose or suggest " means for presenting the consumer with an option to select a payment option from the list of at least one approved payment options " recited in claim 23, claim 23 is patentable and should be allowed.

§103 Rejection of the Claims

Claims 3, 11, 13, and 18 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Hills in view of Wang (U.S. 2003/0009423).

Wang discloses processes and systems for offering and granting digital rights that govern distribution and usage of content, services and resources. (Wang, Abstract.) Wang, whether considered separately or in combination with Hills fails to disclose or suggest "identifying at least one approved payment option ... utilizing the consumer information," "generating a list of

approved payment options, the list including the at least one approved payment option" and "requesting that the consumer selects a payment option from the list." These features are present in claim 3 by virtue of its being dependent on claim 1. Because the features of claim 3 are not disclosed in the combination of Wang and Hills, claim 3 is patentable in view of Wang and Hills combination and should be allowed.

Wang, whether considered separately or in combination with Hills fails to disclose or suggest "a selection module to present the consumer with an option to select a payment option from the list of at least one approved payment options." These features are present in claims 11 and 13 by virtue of its being dependent on claim 8. Because the features of claims 11 and 13 are not disclosed in the combination of Wang and Hills, claims 11 and 13 are patentable in view of Wang and Hills combination and should be allowed.

Wang, whether considered separately or in combination with Hills fails to disclose or suggest instructions to "communicate the at least one approved payment option to the consumer for the selection by the consumer" and "request that the consumer selects an approved payment option from a list including the at least one approved payment option identified based on the consumer information." These features are present in claim 18 by virtue of its being dependent on claim 16. Because the features of claim 18 are not disclosed in the combination of Wang and Hills, claim 18 is patentable in view of Wang and Hills combination and should be allowed.

Reservation of Rights

In the interest of clarity and brevity, Applicants may not have equally addressed every assertion made in the Office Action, however, this does not constitute any admission or acquiescence. Applicants reserve all rights not exercised in connection with this response, such as the right to challenge or rebut any tacit or explicit characterization of any reference or of any of the present claims, the right to challenge or rebut any asserted factual or legal basis of any of the rejections, the right to swear behind any cited reference such as provided under 37 C.F.R. § 1.131 or otherwise, or the right to assert co-ownership of any cited reference. Applicants do not admit that any of the cited references or any other references of record are relevant to the present claims, or that they constitute prior art. To the extent that any rejection or assertion is based upon the Examiner's personal knowledge, rather than any objective evidence of record as manifested by a cited prior art reference, Applicants timely object to such reliance on Official Notice, and reserves all rights to request that the Examiner provide a reference or affidavit in support of such assertion, as required by MPEP § 2144.03. Applicants reserve all rights to pursue any cancelled claims in a subsequent patent application claiming the benefit of priority of the present patent application, and to request rejoinder of any withdrawn claim, as required by MPEP § 821.04.

CONCLUSION

Applicants respectfully submit that the claims are in condition for allowance, and notification to that effect is earnestly requested. The Examiner is invited to telephone Applicants' attorney at 408-278-4052 to facilitate prosecution of this application.

If necessary, please charge any additional fees or credit overpayment to Deposit Account No. 19-0743.

Respectfully submitted,

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CERTIFICATE UNDER 37 CFR 1.8: The undersigned hereby certifies that this correspondence is being filed using the USPTO's electronic filing system EFS-Web, and is addressed to: Mail Stop Amendment, Commissioner of Patents, P.O. Box 1450, Alexandria, VA 22313-1450 on this 29th, day of November 2007.

Name

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Signature

